



Zoning
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: Z-24
AGENDA DATE: Thu 12/02/2004
PAGE: 1 of 1

SUBJECT: C14-04-0146 - The Shops at Arbor Walk - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 10515 North Mopac Expressway (Shoal Creek Watershed) from public (P) district zoning to commercial highway (CH) district zoning. Planning Commission Recommendation: To grant commercial highway (CH) district zoning with conditions. Applicant: Board of Regents of The University of Texas System. Agent: Locke Liddell & Sapp LLP (Jay Hailey). City Staff: Sherri Gager, 974-3057.

REQUESTING Neighborhood Planning
DEPARTMENT: and Zoning

DIRECTOR'S
AUTHORIZATION: Greg Guernsey

ZONING CHANGE REVIEW SHEET

CASE: C14-04-146

P. C. DATE: November 9, 2004

ADDRESS: 10515 North Mopac Expressway

OWNER/APPLICANT: Board of Regents of The University of Texas System

AGENT: Locke Liddell & Sapp LLP (Jay Hailey)

ZONING FROM: P

TO: CH

AREA: 45.783 acres

SUMMARY STAFF RECOMMENDATION:

The staff's recommendation is for CH, Commercial Highway District, zoning. This recommendation includes a public restrictive covenant that would limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA (WHM Transportation Engineering Consultants, Inc.- September 9, 2004). The TIA recommendations are included as Attachment A to this report.

PLANNING COMMISSION RECOMMENDATION:

11/9/04: Approved staff's recommendation of CH zoning with conditions (9-0); D. Sullivan-1st, J. Cortez-2nd.

DEPARTMENT COMMENTS:

The property in question is currently developed with a golf driving range. The applicant is requesting CH district zoning for this site to develop a retail shopping center and restaurant uses. The staff recommends the applicant's request for CH zoning for this site because the CH zoning district would be compatible and consistent with the surrounding uses as there is CH and CH-CO zoning to the south and west of this tract along the MoPac Expressway and U.S. Highway 183 North. The site is adjacent to industrial (LI-PDA, MI, IP) zoning and commercial (CS, CH, CH-CO) zoning to the north, south, east and west. The property meets the purpose statement for the CH, Commercial Highway District, because the site is located to the north of the intersection of U.S. Highway 183 North and MoPac Expressway North at the corner of Braker Lane and the MoPac Expressway.

The property in question is located within the adopted Gateway/North Burnet Combined Neighborhood Planning Area. However, at this time the neighborhood plan is on hold pending the results of a regional comprehensive transportation study for this area.

The applicant agrees with the staff's recommendation.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	P	Golf Driving Range
North	LI-PDA	Office Uses, Hotel
South	CH	Undeveloped

<i>East</i>	P	University of Texas J.J. Pickle Research Center
<i>West</i>	IP, P, CS, P, CS, MF-3-CO, CH	Office, Undeveloped, Hotel, Restaurant, Apartments, Restaurant, Commercial, Hotel

AREA STUDY: North Burnet/Gateway NP Area

TIA: Yes

WATERSHED: Shoal Creek

DESIRED DEVELOPMENT ZONE: Yes

CAPITOL VIEW CORRIDOR: N/A

HILL COUNTRY ROADWAY: N/A

NEIGHBORHOOD ORGANIZATIONS:

64 - River Oaks Lakes Estates Neighborhood
114 - North Growth Corridor Alliance
511 - Austin Neighborhoods Council

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-03-0017	MI-PDA to MI-PDA	6/11/03: Approved staff's recommendation of MI-PDA zoning, with inclusion of original PDA conditions (as read into the record) from Ordinance #000608-67 (8-0, R. Pratt-off dias)	7/31/03: Granted MI-PDA on all 3 readings (7-0)
C14-03-0016	MI to MI-PDA	6/11/03: Approved staff's recommendation of MI-PDA zoning (8-0, R. Pratt-off dias)	7/31/03: Granted MI-PDA on all 3 readings (7-0)
C14-03-0015	MI to CS	6/11/03: Approved staff's recommendation of CS-CO zoning (8-0, R. Pratt-off dias)	7/31/03: Granted CS-CO on all 3 readings
C14-02-0062	LI to CS-1	6/12/02: Approved CS-1 by consent (8-0)	7/11/02: Approved PC rec. of CS-1 (7-0); all 3 readings
C14H-00-2177	LI-PDA to LI-PDA	10/24/00: Approved staff rec. of LI-PDA (TR1), LI-PDA-H (TR2) by consent (9-0)	11/30/00: Approved LI-PDA (TR1) and LI-PDA-H (TR2); (7-0); all 3 readings
C14-00-2065	MI to MI-PDA	5/9/00: Approved staff rec. of MI-PDA by consent (8-0); with the following conditions: 1) That minimum lot size be 1 acre provided for any lots that directly abut Braker Lane and Burnet Road (but not both) and which are less than 3 acres in size. 2) The total number of additional curb cuts on Braker Lane & Burnet Road providing access to	6/8/00: Approved MI-PDA, with changes agreed to with neighborhood association (7-0); all 3 readings

		such lots shall not exceed 50 % of the total number of such lots. 3) The foregoing limitation shall not apply to any lot of more than 3 acres, which abut Braker Lane and Burnet Road.	
C14-99-0024	MI to GR	4/20/99: Approved staff alternate rec. of GR-CO by consent (7-0)	5/20/99: Approved PC rec. of GR-CO w/ conditions (7-0); 1 st reading 6/3/99: Approved GR-CO w/ conditions (7-0); 2 nd /3 rd readings
C14-92-0072	IP to P	8/18/92: Approved	9/3/92: Approved P; all 3 readings

RELATED CASES: N/A

ABUTTING STREETS:

STREET	RIGHT-OF-WAY	PAVEMENT WIDTH	CLASSIFICATION	DAILY TRAFFIC
MoPac (Loop 1)	500'	Varies	Freeway	91,000
Braker Lane	114'	2@30'	Major Arterial	

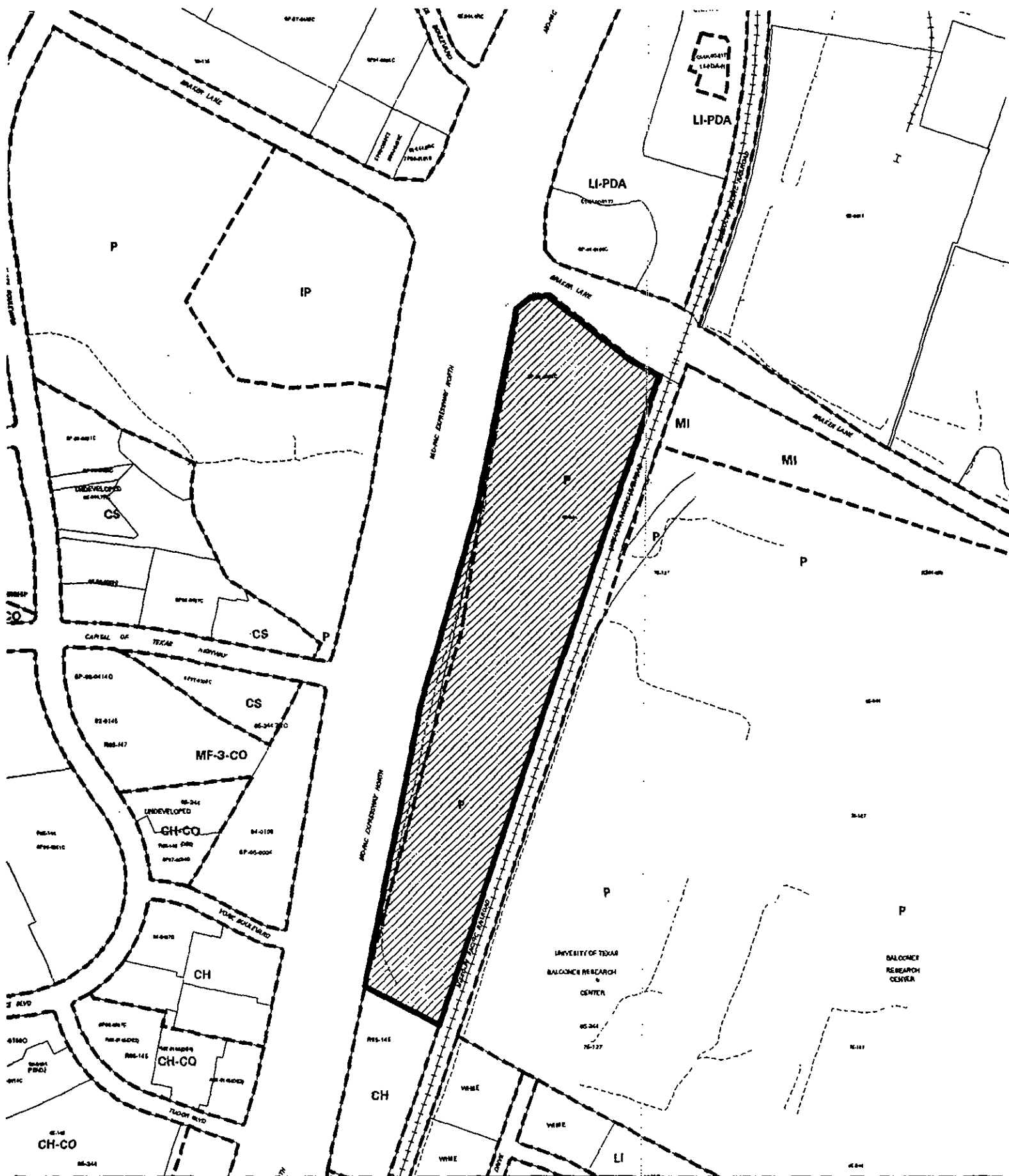
CITY COUNCIL DATE: December 2, 2004 **ACTION:**





ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Sherri Gager

PHONE: 974-3057,
sherri.gager@ci.austin.tx.us



 1" = 800'	SUBJECT TRACT 	ZONING CASE #: C14-04-0146 ADDRESS: 10515 N MO-PAC NB EXPY SUBJECT AREA (acres): 45.783	DATE: 04-09 INTLS: SM	CITY GRID REFERENCE NUMBER J32-33
	PENDING CASE 			
	ZONING BOUNDARY 			
	CASE MGR: S. GAGER			



STAFF RECOMMENDATION

The staff's recommendation is for CH, Commercial Highway District, zoning. This recommendation includes a public restrictive covenant that would limit the site development to uses and intensities that will not exceed or vary from the projected traffic conditions assumed in the final TIA (WHM Transportation Engineering Consultants, Inc.- September 9, 2004). The TIA recommendations are included as Attachment A to this report.

BASIS FOR RECOMMENDATION

1. *The proposed zoning should be consistent with the purpose statement of the district sought.*

The CH zoning district is intended for a use that has operating and traffic generation characteristics that require that the use be located at the intersection of state maintained highways other than scenic arterial roadways. A CH district may be located...on Loop 1 at least 400 feet north of the northernmost right-of-way line of US-183 [Sec. 25-2-105].

The site is located to the north of the intersection of U.S. Highway 183 North and MoPac Expressway North at the corner of Braker Lane and the MoPac Expressway. The property is adjacent to existing CH district zoning to the south and CH-CO district zoning to the west.

2. *The proposed zoning should promote consistency, and orderly planning.*

The CH zoning district would be compatible and consistent with the surrounding uses because there is CH and CH-CO zoning to the south and west of this tract along the MoPac Expressway and U.S. Highway 183 North. The site is adjacent to industrial (LI-PDA, MI, IP) zoning and commercial (CS, CH, CH-CO) zoning to the north, south, east and west.

3. *Zoning changes should promote an orderly relationship among land uses.*

CH zoning would allow this site to be developed with a mixture of high-density residential uses and commercial and industrial uses. This location is appropriate for the proposed mixture of uses because the property in question fronts onto a major arterial roadway, MoPac Expressway, and abuts the Missouri Pacific Railroad.

4. *The proposed zoning should allow for a reasonable use of the property.*

The CH zoning district would allow for a fair and reasonable use of the site. This zoning is appropriate for this location because it will be compatible with the proposed surrounding commercial and industrial land uses.

5. *Zoning should promote the policy of locating retail and more intensive zoning near the intersections of arterial roadways or at the intersections of arterials and major collectors.*

The property in question is located at the corner of the MoPac Expressway, a freeway, and Braker Lane, a major arterial roadway.

EXISTING CONDITIONS

Site Characteristics

The site under consideration is currently developed with a golf driving range. The property fronts the MoPac Expressway North Bound and is bordered by the Missouri Pacific Railroad and the University of Texas J. J. Pickle Research Center to the east. There is commercial and industrial development surrounding the site to the north, south and east and west. The property appears to slope to the east.

Hill Country Roadway

The site is not within a Hill Country Roadway Corridor.

Impervious Cover

The maximum impervious cover allowed by the CH zoning district would be 85%. However, if the watershed impervious cover is more restrictive than the zoning district's allowable impervious cover, the impervious cover is limited by the watershed regulations.

The site may be partially located over the Northern Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.

Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.

Note: The most restrictive impervious cover limit applies.

Environmental

This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 s.f. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals, which would preempt current water quality or Code requirements.

According to flood plain maps, there is no flood plain within the project area. However, floodplains exist right up to the southern property line.

At this time, site-specific information is unavailable regarding existing trees and other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

Transportation

A traffic impact analysis is required and has been received. Additional right-of-way, participation in roadway improvements, or limitations on development intensity may be recommended based on

review of the TIA. [LDC, Sec. 25-6-142]. Comments will be provided in a separate memo (Attachment A).

Existing Street Characteristics:

NAME	ROW	PAVEMENT	CLASSIFICATION	Capital Metro	Bicycle Plan	Sidewalks
Braker Lane	Varies	Varies	Arterial	Yes	Yes	No
Loop 1 (MoPac)	Varies	Varjies	Arterial	No	No	No

Right of Way

The scope of this review is limited to the identification of needs for dedication and/or reservation of right-of-way for funded Capital Improvement Program (C.I.P.) Roadway Construction Projects and Transportation Systems Management (T.S.M.) Projects planned for implementation by the City of Austin. No aspect of the proposed project is being considered or approved with this review other than the need for right-of-way for City projects. There are separate right-of-way dedication and reservation requirements enforced by other Departments and other jurisdictions to secure right-of-way for roadway improvements contained in the Austin Metropolitan Area Roadway Plan, roadway projects funded by County and State agencies, and for dedication in accordance with the functional classification of the roadway.

We have reviewed the proposed subdivision, site plan, or zoning case and anticipate no additional requirement for right-of-way dedication or reservation for funded C.I.P. or T.S.M. projects at this location.

Water and Wastewater

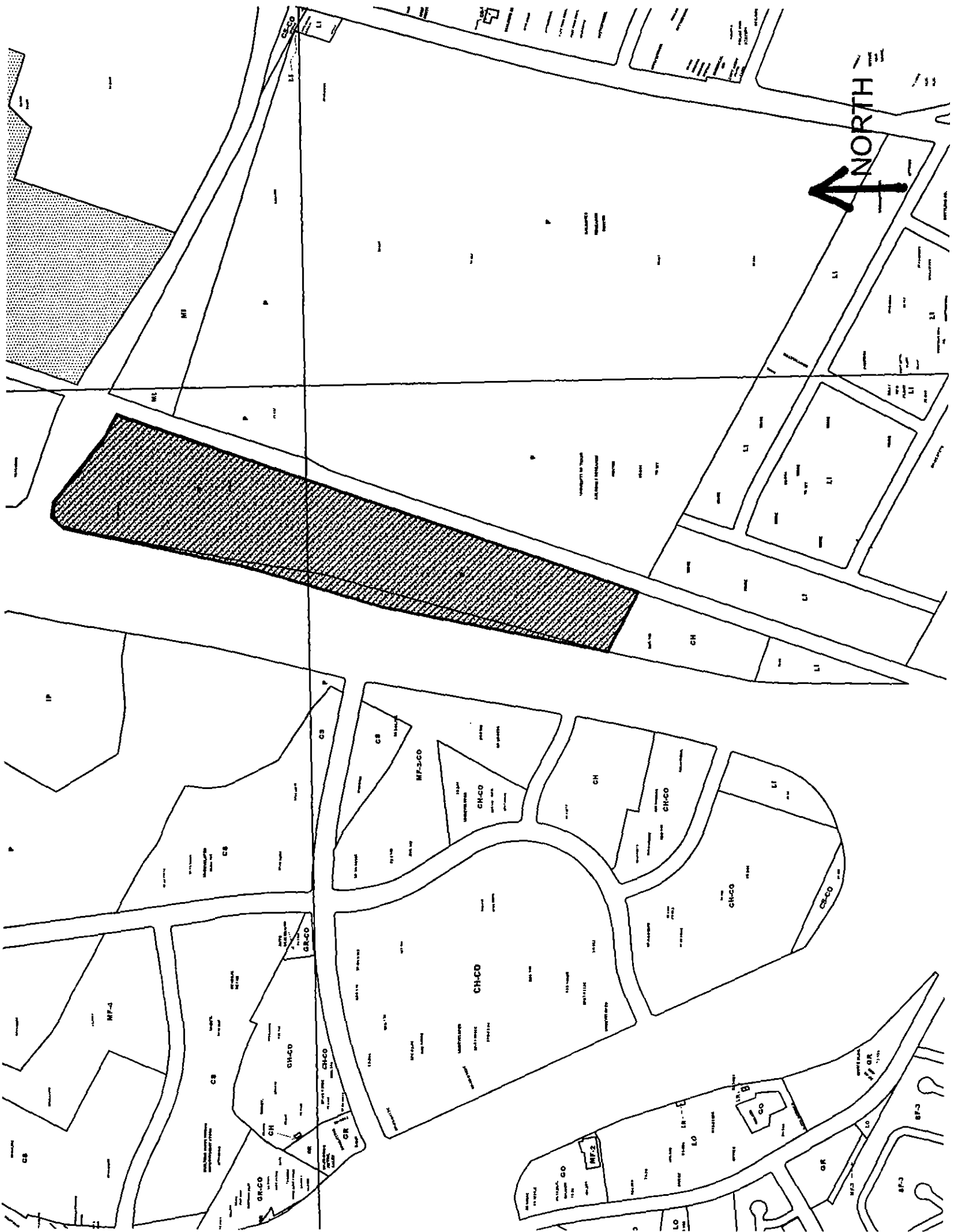
The landowner intends to serve the site with City water and wastewater utilities. If water or wastewater utility improvements, or system upgrades, or offsite main extension, or utility relocation, or utility adjustment are required, the landowner will be responsible for all costs and for providing. Also, the water and wastewater utility plan must be reviewed and approved by the Austin Water Utility. The plan must be in accordance with the City utility design criteria and specifications.

Stormwater Detention

At the time a final subdivision plat, subdivision construction plans, or site plan is submitted, the developer must demonstrate that the proposed development will not result in additional identifiable flooding of other property. Any increase in stormwater runoff will be mitigated through on-site stormwater detention ponds, or participation in the City of Austin Regional Stormwater Management Program, if available.

Compatibility Standards

This site is not subject to compatibility development regulations.





Date: November 3, 2004
To: Sherri Gager, Case Manager
CC: Heidi Ross, P.E., WHM Transportation Engineering
Reference: The Shops at Arbor Walk, C14-04-0146

The Transportation Review Section has reviewed the Traffic Impact Analysis for the Shops at Arbor Walk, dated September 2004, prepared by Heidi Ross, P.E., WHM Transportation Engineering, and offers the following comments:

TRIP GENERATION

The Shops at Arbor Walk is a 45.7-acre development located in northwest Austin at the southeast corner of Loop 1 (MoPac) and Braker Lane.

The property is currently undeveloped and zoned Public (P). The applicant has requested a zoning change to Commercial Highway (CH). The estimated completion of the project is expected in the year 2008.

Based on the standard trip generation rates established by the Institute of Transportation Engineers (ITE), the development will generate approximately 47,830 unadjusted average daily trips (ADT).

The table below shows the adjusted trip generation by land use for the proposed development:

Table 1. Trip Generation						
			AM Peak		PM Peak	
LAND USE	Size	ADT	Enter	Exit	Enter	Exit
Discount Store	240,000	11,159	114	54	504	504
Shopping Center	240,000	7,918	106	68	354	383
High Turnover Restaurant	20,000	1,327	63	58	69	44
Fast Food Restaurant w/ Drive Thru	40,000	9,020	498	478	324	299
Total		29,424	781	658	1,251	1,230

ASSUMPTIONS

1. Traffic growth rates provided by the City of Austin were as follows:

Table 2. Growth Rates per Year	
Roadway Segment	%
All Roads	1.5%

2. In addition to these growth rates, background traffic volumes for 2003 included estimated traffic volumes for the following projects:

The Domain and Multek Retail	
Multek Subdivision	C8-04-0006.0A
Braker Pointe Subdivision	C8-03-0121.0A
Domain Building 5 Part B	SP-00-2579B
KB Home Annex Building	SP-01-0327C
Kramer Center	SPC-02-0020A
North Austin Service Center	SP-01-0018C
Braker Lane Public Storage	SP-02-0039C
Wienerschnitzel #731	SP-03-0130C
Tivoli Phase 1, 2, & 3	SP-00-2372C
Gracy Farms	SP-03-0432C

3. Reductions were taken for pass-by for the following uses:

Table 3. Summary of Pass-By and Internal Capture Reductions		
Land Use	Pass-By Reductions %	
	AM	PM
Discount Store	17%	17%
Shopping Center	34%	34%
High Turnover Restaurant	42%	42%
Fast Food Restaurant w/ Drive Through	49%	50%

4. A 10% reduction was taken for internal capture for the high turnover restaurant and the fast food restaurant.
5. No reductions were taken for transit use.

EXISTING AND PLANNED ROADWAYS

US 183 – This roadway is classified as a six lane divide freeway. The 2002 traffic volumes on US Highway 183 were approximately 180,000 vehicles per day (vpd).

Loop 1 (MoPac) – This roadway is located on the west side of the property. This facility is classified as a six lane divide freeway within the sites vicinity. The 2002 traffic volumes on this roadway were approximately 110,000vpd.

Loop 360 (Capital of Texas Highway) – This roadway is classified as a six lane divided major arterial and carried approximately 51,640vpd in 2002. Loop 360 is in the Bicycle Plan as a Priority 1 route.

Braker Lane – This roadway is classified as a six lane divided major arterial and is located on the north side of the subject property. The 1997 traffic volumes for this facility east and west of Loop 1 were approximately 38,350 and 30,710vpd respectively. Braker Lane is the Bicycle Plan as a Priority 1 route.

FM 1325 (Burnet Road) – This roadway is classified as a four lane divided major arterial. The 2002 traffic volumes for FM 1325 were 35,000vpd.

Stonelake Boulevard – This roadway is a six lane divided collector roadway. The 1997 traffic volumes on this roadway were 6,330vpd.

TRAFFIC ANALYSIS

The impact of site development traffic on the existing area roadways was analyzed. Two time periods and travel conditions were evaluated:

- 2004 Existing Conditions
- 2008 Build-Out Conditions

INTERSECTION LEVEL OF SERVICE (LOS)

The TIA analyzed 13 intersections, 9 of which are or would be signalized.

Table 4. Level of Service				
Intersection	2004		2008	
	AM	PM	AM	PM
Loop 360 and US 183 EFR*	C	D	C	D
Loop 360 and US 183 WFR*	C	C	C	D
Loop 1 EFR and Loop 360*	C	C	C	D
Loop 1 WFR and Loop 360*	C	C	C	D
Loop 1 EFR and Braker Lane*	B	C	C	C
Loop 1 WFR and Braker Lane*	C	C	D	D
Loop 360 and Stonelake Boulevard*	C	C	C	B
Burnet Road and Braker Lane*	D	E	D	D
Domain Driveway/JJ Pickle Center (Road A) and Braker Lane*	B	A	C	C
Loop 1 EFR and Existing Driveway (Driveway C)	A	A	A	B
Loop 1 EFR and Driveway A			A	F
Loop 1 EFR and Driveway B			C	C
Driveway D and Braker Lane			A	A

* = SIGNALIZED

RECOMMENDATIONS

- 1) Fiscal is required to be posted for the following improvements prior to the 3rd reading at City Council:

Intersection	Improvements	Total Cost	Pro Rata Share %	Pro Rata Share \$
Burnet Road and Braker Lane	NB Construct Dual left turn lanes NB Extend right turn bay length	\$129,461	4.3%	\$5,567
Loop 1 WFR and Loop 360	SB Restripe to provide 1 left/through, 1 through, and 1 right	\$6,472	14.4%	\$932
Domain Driveway/JJ Pickle Research Center (Road A) and Braker Lane	Relocate existing signalized intersection	TBD		
	NB - Construct dual left turn lanes			
	SB - Construct dual left turn lanes			
	EB and WB - Construct dual left turn lanes			
	WB - Acceleration lane			
Loop 1 EFR and Loop 360	NB Restripe to provide 1 left, 2 through	\$6,807	22.2%	\$1,511

TBD = To Be Determined

- 2) Right-of-way dedication will be required at the time of site plan for the acceleration and deceleration lanes along Loop 1.
- 3) Additional right-of-way dedication and/or reservation may be required at the time of subdivision and/or site plan in accordance with the roadway plan.
- 4) Approval from TXDOT and DPWT is required to be received prior to scheduling this case for 1st Reading at City Council.
- 5) Development of this property should be limited to uses and intensities which will not exceed or vary from the projected traffic conditions assumed in the TIA, including peak hour trip generations, traffic distribution, roadway conditions, and other traffic related characteristics.

If you have any questions or require additional information, please contact me at 974-2788.



Emily M. Barron
Sr. Planner - Transportation Review Staff
Watershed Protection and Development Review

ORDINANCE NO. _____

1 **AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE**
2 **PROPERTY LOCATED AT 10515 NORTH MOPAC EXPRESSWAY FROM**
3 **PUBLIC (P) DISTRICT TO COMMERCIAL HIGHWAY (CH) DISTRICT.**
4

5 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**
6

7 **PART 1.** The zoning map established by Section 25-2-191 of the City Code is amended to
8 change the base district from public (P) district to commercial highway (CH) district on the
9 property described in Zoning Case No. C14-04-0146, on file at the Neighborhood Planning
10 and Zoning Department, as follows:
11

12 A 45.783 acre tract of land, more or less, out of the James Rogers Survey No. 19,
13 and the James P. Wallace Survey No. 18, Travis County, the tract of land being
14 more particularly described by metes and bounds in Exhibit "A" incorporated into
15 this ordinance,
16

17 locally known as 10515 North MoPac Expressway, in the City of Austin, Travis County,
18 Texas, and generally identified in the map attached as Exhibit "B".
19

20 **PART 2.** This ordinance takes effect on _____, 2004.
21

22
23 **PASSED AND APPROVED**
24

25 §
26 §
27 _____, 2004 § _____
28 Will Wynn
29 Mayor
30

31
32 **APPROVED:** _____ **ATTEST:** _____
33 David Allan Smith Shirley A. Brown
34 City Attorney City Clerk

NOVEMBER 18, 2003 JOB NO. 509-01 FIELD NOTE NO. 509-01R1
CLIENT: UT PROJECT: 45.783 ACRES BRAKER @ MOPAC
COA GRID NO. J-32 & J-33

FIELD NOTES

A DESCRIPTION OF 45.783 ACRES OF LAND SITUATED IN THE JAMES ROGERS SURVEY NO. 19 AND THE JAMES P. WALLACE SURVEY NO. 18, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 382 ACRE TRACT OF LAND DESIGNATED AS FIRST TRACT, CONVEYED TO THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS BY DEED RECORDED IN VOLUME 994, PAGE 337 OF THE REAL PROPERTY RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found at the intersection of the south right-of-way (R.O.W.) line of Braker Lane with the west R.O.W. line of the Missouri Pacific Railroad for the northeast corner of the herein described 45.783 acres;

THENCE along the said west R.O.W. line, S19°54'00"W, 3342.76 feet to a 1/2 inch iron rod found for the northeast corner of Lot 1, Stonebridge VII, a subdivision whose plat is recorded in Volume 88, Page 346 of the Plat Records of said County and the southeast corner of the herein described 45.783 acres;

THENCE, departing said west R.O.W. line, along the north line of said Lot 1; N60°44'29"W, 411.45 feet to a concrete highway monument found for the northwest corner of said Lot 1 and the southwest corner of the herein described 45.783 acres on the east R.O.W. line of Loop 1 (Mopac Boulevard) (R.O.W. varies), being the east line of that certain 42.4233 acre tract of land conveyed as a R.O.W. easement to the State of Texas by deed recorded in Volume 8261, Page 799 of the said Real Property Records;

THENCE along said east R.O.W. line the following six (6) courses:

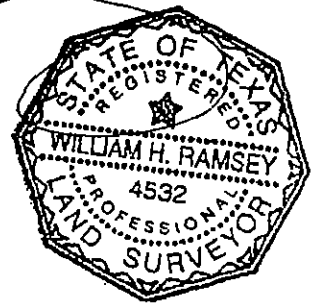
1. N12°38'02"E, 1391.15 feet to a concrete highway monument found,
2. N17°00'22"E, 1002.97 feet to a concrete highway monument found,
3. N12°35'23"E, 909.35 feet to a concrete highway monument found for a point of curvature,

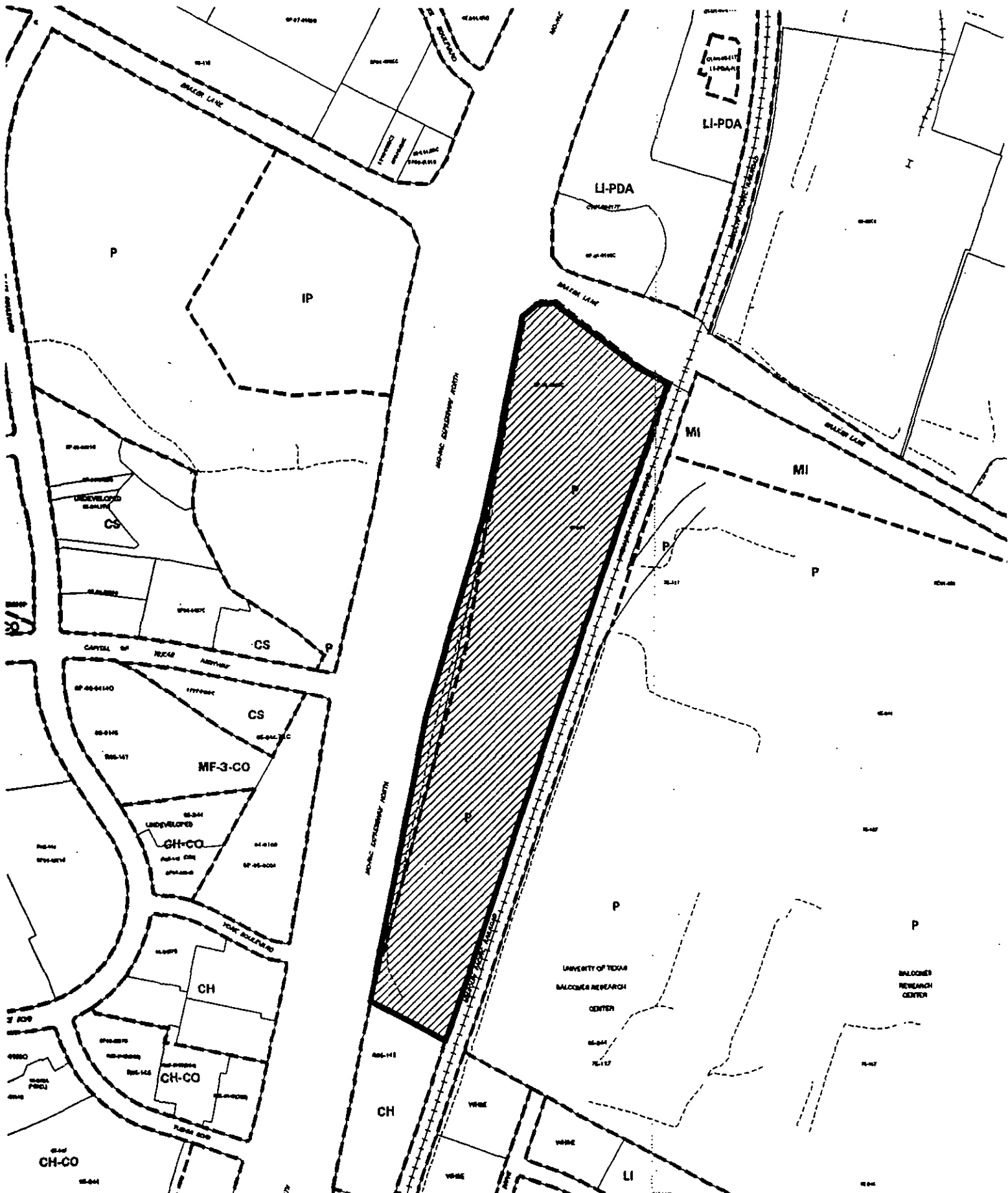
4. a distance of 86.10 feet along the arc of a curve to the right whose radius is 5454.58 feet, central angle is $00^{\circ}54'16''$ and whose chord bears $N13^{\circ}08'37''E$, 86.09 feet to a concrete highway monument found,
5. $N51^{\circ}41'59''E$, 89.71 feet to a point, and
6. $N86^{\circ}40'02''E$, 81.08 feet to a $3/4$ inch iron rod found on the south R.O.W. line of said Braker Lane;


THENCE, departing said east R.O.W. line, along the said south R.O.W. line, the following two (2) courses:

1. $S50^{\circ}51'14''E$, 507.89 feet to a $1/2$ inch iron rod found, and
2. $S60^{\circ}47'39''E$, 155.96 feet to the POINT OF BEGINNING containing 45.783 acres of land more or less.

William H. Ramsey
11-1803





 1" = 600'	<p>SUBJECT TRACT</p> <p>PENDING CASE</p> <p>ZONING BOUNDARY</p> <p>CASE MGR: S. GAGER</p>	<p>ZONING</p> <p>CASE #: C14-04-0146</p> <p>ADDRESS: 10515 N MO-PAC NB EXPY</p> <p>SUBJECT AREA (acres): 45.783</p>	<p>DATE: 04-09</p> <p>INTLS: SM</p>	<p>CITY GRID REFERENCE NUMBER</p> <p>J32-33</p>
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RESTRICTIVE COVENANT

OWNER: Board of Regents of the University of Texas System

ADDRESS: c/o Jay Hailey, 210 W. 6th Street, Austin, TX 78701

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 45.783 acre tract of land, more or less, out of the James Rogers Survey No. 19 and the James P. Wallace Survey No. 18, Travis County, the tract of land being more particularly described by metes and bounds in Exhibit "A" incorporated into this covenant.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by WHM Transportation Engineering Consultants, Inc., dated September 9, 2004, or as amended and approved by the Director of the Watershed Protection and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Watershed Protection and Development Review Department, dated November 3, 2004. The TIA shall be kept on file at the Watershed Protection and Development Review Department.
2. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect.
4. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.

5. This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the _____ day of _____, 2004.

OWNER:

**Board of Regents
of the University of Texas System**

By: _____
Florence P. Mayne,
Executive Director of Real Estate,
University of Texas System

APPROVED AS TO FORM:

Assistant City Attorney
City of Austin

THE STATE OF TEXAS §

COUNTY OF TRAVIS §

This instrument was acknowledged before me on this the ____ day of _____, 2004, by Florence P. Mayne, Executive Director of Real Estate of the University of Texas System, on behalf of the Board of Regents of the University of Texas System.

Notary Public, State of Texas

NOVEMBER 18, 2003 JOB NO. 509-01 FIELD NOTE NO. 509-01R1
CLIENT: UT PROJECT: 45.783 ACRES BRAKER @ MOPAC
COA GRID NO. J-32 & J-33

FIELD NOTES

A DESCRIPTION OF 45.783 ACRES OF LAND SITUATED IN THE JAMES ROGERS SURVEY NO. 19 AND THE JAMES P. WALLACE SURVEY NO. 18, TRAVIS COUNTY, TEXAS, BEING A PORTION OF THAT CERTAIN 382 ACRE TRACT OF LAND DESIGNATED AS FIRST TRACT, CONVEYED TO THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS BY DEED RECORDED IN VOLUME 994, PAGE 337 OF THE REAL PROPERTY RECORDS OF SAID COUNTY, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8 inch iron rod with plastic cap marked "RPLS 4532" found at the intersection of the south right-of-way (R.O.W.) line of Braker Lane with the west R.O.W. line of the Missouri Pacific Railroad for the northeast corner of the herein described 45.783 acres;

THENCE along the said west R.O.W. line, S19°54'00"W, 3342.76 feet to a 1/2 inch iron rod found for the northeast corner of Lot 1, Stonebridge VII, a subdivision whose plat is recorded in Volume 88, Page 346 of the Plat Records of said County and the southeast corner of the herein described 45.783 acres;

THENCE, departing said west R.O.W. line, along the north line of said Lot 1, N60°44'29"W, 411.45 feet to a concrete highway monument found for the northwest corner of said Lot 1 and the southwest corner of the herein described 45.783 acres on the east R.O.W. line of Loop 1 (Mopac Boulevard) (R.O.W. varies), being the east line of that certain 42.4233 acre tract of land conveyed as a R.O.W. easement to the State of Texas by deed recorded in Volume 8261, Page 799 of the said Real Property Records;

THENCE along said east R.O.W. line the following six (6) courses:

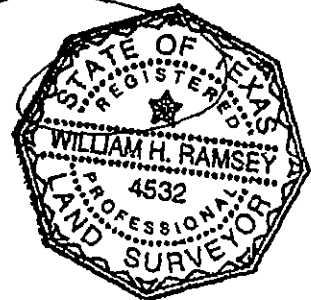
1. N12°38'02"E, 1391.15 feet to a concrete highway monument found,
2. N17°00'22"E, 1002.97 feet to a concrete highway monument found,
3. N12°35'23"E, 909.35 feet to a concrete highway monument found for a point of curvature,

4. a distance of 86.10 feet along the arc of a curve to the right whose radius is 5454.58 feet, central angle is $00^{\circ}54'16''$ and whose chord bears $N13^{\circ}08'37''E$, 86.09 feet to a concrete highway monument found,
5. $N51^{\circ}41'59''E$, 89.71 feet to a point, and
6. $N86^{\circ}40'02''E$, 81.08 feet to a $3/4$ inch iron rod found on the south R.O.W. line of said Braker Lane;

THENCE, departing said east R.O.W. line, along the said south R.O.W. line, the following two (2) courses:

1. $S50^{\circ}51'14''E$, 507.89 feet to a $1/2$ inch iron rod found, and
2. $S60^{\circ}47'39''E$, 155.96 feet to the POINT OF BEGINNING containing 45.783 acres of land more or less.

W. H. Ramsey
11-1803



After Recording, Please Return to:

City of Austin

Department of Law

P. O. Box 1088

Austin, Texas 78767

Attention: Diana Minter, Legal Assistant